

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE: : CASE NO. 22-52950-PMB
:
ATLANTA LIGHT BULBS, INC. : CHAPTER 7
:
Debtor. : JUDGE BAISIER

**MOTION OF TRUSTEE FOR AN ORDER PURSUANT TO BANKRUPTCY RULE 2004
AUTHORIZING EXAMINATION OF SOUTHSTATE BANK, NATIONAL
ASSOCIATION (INC.) FKA ATLANTIC CAPITAL BANK, N.A. AND DIRECTING
THE PRODUCTION OF DOCUMENTS**

COMES NOW, S. Gregory Hays, as Chapter 7 Trustee (“**Trustee**”) for the Estate (the “**Estate**”) of Atlanta Light Bulbs, Inc., Debtor (“**Debtor**”) in the above captioned Bankruptcy Case (the “**Bankruptcy Case**”), by and through counsel, and hereby files this *Motion of Trustee for an Order Pursuant to Bankruptcy Rule 2004 Authorizing Examination of SouthState Bank, National Association (Inc.) fka Atlantic Capital Bank, N.A.* (“**SouthState**”) and Directing the Production of Documents (the “**Motion**”). In support of the Motion, the Trustee respectfully shows the Court as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §1334. This is a core proceeding pursuant to 28 U.S.C. §157(B). Venue of this proceeding is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The predicates for the relief requested herein are Section 105(a) of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “**Bankruptcy Code**”), Rule 2004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rule 2004-1 of the Local Rules of Practice for the United States Bankruptcy Court for the Northern District of Georgia.

PROCEDURAL BACKGROUND

3. On April 15, 2022, Halco Lighting Technologies, LLC, Norcross Electric Supply Company and Candela Corporation filed an involuntary petition for relief under Chapter 11 of Title 11 of the United States Code against the Debtor in the United States Bankruptcy Court for the Northern District of Georgia (the “**Court**”).

4. On May 23, 2022, the Court entered an Order for Relief under Chapter 11 of the Bankruptcy Code [Doc. No. 21].

5. On June 15, 2022, the Court entered an order [Doc. No. 58] directing the appointment of a Chapter 11 Trustee on behalf of Debtor.

6. On June 17, 2022, the Court entered an order [Doc. No. 68] approving the Trustee as Chapter 11 Trustee for Debtor.

7. On June 23, 2022, the United States Trustee conducted and concluded the Section 341 meeting of creditors at which the Debtor’s principal, Jessica Mendoza (“**Mendoza**”), appeared and testified under oath regarding the business of the Debtor.

8. On July 7, 2022, the Court entered an order [Doc. No. 109] converting the Bankruptcy Case to Chapter 7 and directing the United States Trustee to appoint an interim Chapter 7 Trustee in the Bankruptcy Case.

9. On July 7, 2022, the United States Trustee appointed S. Gregory Hays as the interim Trustee of the Debtor.

SUBSTANTIVE BACKGROUND

10. With the assistance of the professionals of the Trustee, the Trustee has, among other things, conducted an initial and preliminary investigation of the affairs of the Debtor that has been hindered by a lack of documentation, records, and information generally. As this is an involuntary

case, no schedules were filed by the Debtor. There is significant uncertainty as to the assets, liabilities, and the disposition of the assets of the Debtor. Additional documentation and information is needed for the Trustee to further understand transactions involving the Debtor and potential causes of action available for the benefit of the Estate.

11. At this juncture, the Trustee is aware that the Debtor had at least one account with SouthState and does not have complete information, records and statements regarding such account(s). The Trustee has reason to believe that SouthState may have information, statements electronically stored information, knowledge, data, records, communications, correspondence, and/or documents (collectively, the “**Documents**”) relevant to the Bankruptcy Case and the investigation of the Trustee. These Documents include, but are not limited to, information, records, and statements regarding account(s) of the Debtor. Since the Debtor maintained at least one account with SouthState, these Documents may also be property of the Estate.

RELIEF REQUESTED AND BASIS THEREFOR

12. Bankruptcy Rule 2004 allows for the examination of the Debtor and non-debtor entities relating “to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor’s estate.” Fed. R. Bankr. P. 2004(b). Courts interpret the right to use Rule 2004 as an investigative tool very broadly, likening such examinations as licensed “fishing expeditions.” *See In re M4 Enters, Inc.*, 190 B.R. 471, 474 (Bankr. N.D. Ga. 1995).

13. Section 704 of the Bankruptcy Code sets forth the duties of the Trustee, including the duty to “investigate the financial affairs of the debtor.” *See* 11 U.S.C. § 704(a)(4). By this Motion, the Trustee seeks to continue to fulfill his statutory duty to investigate the financial affairs and assets of the Debtor and attempt to determine whether any: a) assets or opportunities were

diverted or improperly transferred from the Debtor; and b) causes of action are available for the benefit of the Estate.

14. Under the circumstances, the Trustee should be permitted to conduct an examination of SouthState concerning any and all matters within the scope permitted by Rule 2004(b) (the “**Bankruptcy Rule 2004 Exam**”) and obtain the Documents from SouthState. The topics to be covered in the Bankruptcy Rule 2004 Exam and the Documents to be produced prior to the Bankruptcy Rule 2004 Exam are specified in the *Trustee’s Notice of Bankruptcy Rule 2004 Examination of SouthState Bank, National Association (Inc.) fka Atlantic Capital Bank, N.A. and the Production of Documents* attached hereto as **Exhibit 1**.

WHEREFORE, the Trustee requests that this Court: (a) grant this Motion by entering an order substantially in the form of the proposed order attached as **Exhibit 2** hereto; and (b) grant the Trustee such other and further relief as is just and proper.

Respectfully submitted this 21st day of July, 2022.

LAW OFFICES OF HENRY F. SEWELL JR., LLC

/s/ Henry F. Sewell, Jr.

Henry F. Sewell, Jr.
Georgia Bar No. 636265
Buckhead Centre
2964 Peachtree Road NW, Suite 555
Atlanta, GA 30305
(404) 926-0053
hsewell@sewellfirm.com

Counsel for S. Gregory Hays, as Chapter 7 Trustee of Atlanta Light Bulbs, Inc.

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE: : CASE NO. 22-52950-PMB
:
ATLANTA LIGHT BULBS, INC. : CHAPTER 7
:
Debtor. : JUDGE BAISIER

NOTICE OF BANKRUPTCY RULE 2004 EXAMINATION OF SOUTHSTATE BANK,
NATIONAL ASSOCIATION (INC.) FKA ATLANTIC CAPITAL BANK, N.A. AND THE
PRODUCTION OF DOCUMENTS

TO: SouthState Bank, National Association (Inc.)
c/o Corporation Service Company
2 SUN COURT, SUITE 400
PEACHTREE CORNERS, GA, 30092

SouthState Bank, National Association (Inc.)
c/o John Corbett, CEO
1101 First Street South
Winter Haven, FL, 33880

Please take notice that, pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure, a representative of SouthState Bank, National Association (Inc.) fka Atlantic Capital Bank, N.A. (“**SouthState**” or the “**Witness**”) is required to attend an examination (the “**Examination**”) by S. Gregory Hays, Chapter 7 Trustee (the “**Trustee**”) for the Estate (the “**Estate**”) of Atlanta Light Bulbs, Inc., Debtor (“**Debtor**”) in the above captioned Bankruptcy Case (the “**Bankruptcy Case**”), pursuant to the Order by the United States Bankruptcy Court for the Northern District of Georgia dated _____, 2022 (Dkt. No. _____, the “**Examination Order**”) authorizing the Examination of SouthState as to any and all matters within the scope of the Bankruptcy Case permitted by Rule 2004(b). The Examination will commence at 10:00 a.m., on August ___, 2022, at the Law Offices of Henry F. Sewell Jr., LLC, located at 2964 Peachtree Road NW, Suite 555, Atlanta, GA 30305, or as otherwise agreed to by the parties. The Examination will

be recorded stenographically, and may be recorded by audio or video tape, before an officer qualified to make such examinations and continue from day to day until completed. The Examination will be taken for the purposes of discovery in the Bankruptcy Case and for all other purposes permitted by law, including use at trial, if and where appropriate.

PLEASE TAKE NOTICE that SouthState is required to designate a representative to attend and testify at the Examination as to any and all matters within the scope of the Bankruptcy Case permitted by Rule 2004(b), including, but not limited to, the following: a) any account(s) of the Debtor at SouthState; and b) any Documents¹ related to any account(s) of the Debtor with SouthState.

PLEASE TAKE FURTHER NOTICE that, pursuant to Bankruptcy Rule 2004(c), SouthState is further instructed to produce for inspection and copying at the Law Offices of Henry F. Sewell Jr., LLC, located at 2964 Peachtree Road NW, Suite 555, Atlanta, GA 30305, at 10:00

¹ **“Document”** and **“Documents”** are used in the broadest possible sense and include, but are not limited to, all original and all non-identical copies of any writing or record of any type or description, including, but not limited to, the following items, and each draft thereof: writings, recordings, notes, photographs, financial statements, agreements, contracts, legal documents, communications, e-mails, Correspondence, letters, statements, reports, envelopes, phone messages, telephone logs, agendas, books, articles, receipts, purchase orders, sales orders, tape recordings, affidavits, opinions, notices, proposals, invoices, confirmations, telegrams, cables, memoranda, records, summaries of records, summaries of data, summaries of personal conversations or interviews, diaries, appointment books, appointment logs, desk calendars, pocket calendars, forecasts, statistical statements, accounts, work papers and related supporting documents, graphs, charts, maps, diagrams, blue prints, tables, indexes, pictures, tapes, microfilms, charges, analytical records, minutes or records of meetings or conferences, reports and/or summaries of interviews, reports and/or summaries of investigations, opinions or reports of consultants, appraisals, records, reports or summaries of negotiations, brochures, pamphlets, circulars, trade letters, press releases, stenographic, handwritten or any other notes, projections, bank statements, checks (front and back), check stubs or receipts, checkbooks, canceled checks, invoice vouchers, electronically or magnetically recorded or stored data, data tapes and sheets or data processing cards or discs or any other computer-related data compilation, and any other written, recorded, printed, typed, photographed, transcribed, punched, taped, filmed, or electronically or graphically recorded documents or writings of whatever description however produced or reproduced, including but not limited to, any information contained in any computer although not yet printed, within your possession, custody or control or in the possession, custody or control of any agent, employee (including without limitation, attorneys, accountants and investment bankers or advisors), or other Person acting on your behalf.

a.m. on August ___, 2022, or as otherwise agreed to by the parties, any Documents, including any bank statements, checks, wire transfer receipts, records of transactions, Communications,² or Correspondence,³ related to any account(s) of the Debtor with SouthState.

Dated this _____ day of July, 2022.

LAW OFFICES OF HENRY F. SEWELL JR., LLC

/s/ Henry F. Sewell, Jr.

Henry F. Sewell, Jr.

Georgia Bar No. 636265

Buckhead Centre

2964 Peachtree Road NW, Suite 555

Atlanta, GA 30305

(404) 926-0053

hsewell@sewellfirm.com

Counsel for S. Gregory Hays, as Chapter 7 Trustee of Atlanta Light Bulbs, Inc.

² “**Communication**” or “**communications**” means any contact or act by which any information or knowledge is transmitted or conveyed between two or more Persons and shall include, without limitation, written contact by such means as letters, memoranda, Correspondence, telegrams, telex, or by any document, and oral contact by such means as face-to-face meetings and telephone conversations.

³ “**Correspondence**” means all Documents transmitted from one Person to another, including those in electronic form, and all attachments to such Documents.

EXHIBIT 2

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE: : CASE NO. 22-52950-PMB
:
ATLANTA LIGHT BULBS, INC. : CHAPTER 7
:
Debtor. : JUDGE BAISIER

**ORDER GRANTING MOTION OF TRUSTEE FOR AN ORDER PURSUANT TO
BANKRUPTCY RULE 2004 AUTHORIZING EXAMINATION OF SOUTHSTATE
BANK, NATIONAL ASSOCIATION (INC.) FKA ATLANTIC CAPITAL BANK, N.A.
AND DIRECTING THE PRODUCTION OF DOCUMENTS**

The *Motion for an Order Pursuant to Bankruptcy Rule 2004 Authorizing Examination of SouthState Bank, National Association (Inc.) fka Atlantic Capital Bank, N.A. and Directing the Production of Documents* (Doc. No. ____, the “**Motion**”) filed on July 21, 2022 by S. Gregory Hays, as Chapter 7 Trustee (“**Trustee**”) for the Estate (the “**Estate**”) of Atlanta Light Bulbs, Inc., having been read and considered, it is

ORDERED that the Motion be, and the same hereby is, **granted** as follows: pursuant to Fed.R.Bankr.P. 2004(a), the Movant is authorized to proceed with discovery and conduct an examination of SouthState Bank, National Association (Inc.) fka Atlantic Capital Bank, N.A. (“Atlantic Capital”) in accordance with Fed.R.Bankr.P. 2004(b) at a mutually agreed date, time, and place. It is further

ORDERED that the examination may be rescheduled or adjourned from time to time and place to place by agreement of the parties, by announcement at the examination, or as set forth in a notice filed with the Court and served on Atlantic Capital and its counsel and the Trustee. It is further

ORDERED that if attendance and, if applicable, production of designated documents in connection with said examination, cannot be obtained voluntarily, the Movant may compel such attendance and production of documents as stated in Fed.R.Bankr.P. 2004(c) in the manner provided in Fed.R.Bankr.P. 9016, which incorporates the procedure for the issuance of a subpoena as set forth in Federal Rule of Civil Procedure 45. It is further

ORDERED that Atlantic Capital shall timely respond to any document requests made by the Movant in accordance with Fed.R.Bankr.P. 2004(c). Atlantic Capital may assert written objections in good faith to the requests as if such requests had been served pursuant to Fed.R.Bankr.P. 7034 and shall produce to the Movant all responsive documents that are not subject to a valid timely asserted objection.

The Clerk is directed to serve a copy of this Order upon counsel for the Movant, Atlantic Capital, the Chapter 7 Trustee, and the United States Trustee.

END OF DOCUMENT

Prepared and Presented by:

LAW OFFICES OF HENRY F. SEWELL JR., LLC

/s/ Henry F. Sewell, Jr.

Henry F. Sewell, Jr.
Georgia Bar No. 636265
Buckhead Centre
2964 Peachtree Road NW, Suite 555
Atlanta, GA 30305
(404) 926-0053
hsewell@sewellfirm.com

Counsel for S. Gregory Hays, as Chapter 7 Trustee of Atlanta Light Bulbs, Inc.

Parties to Be Served

SouthState Bank, National Association (Inc.)
c/o Corporation Service Company
2 SUN COURT, SUITE 400
PEACHTREE CORNERS, GA, 30092

SouthState Bank, National Association (Inc.)
c/o John Corbett, CEO
1101 First Street South
Winter Haven, FL, 33880

S. Gregory Hays, Trustee
Suite 555, 2964 Peachtree Road NW
Atlanta, Georgia 30305

Henry F. Sewell, Jr.
Suite 555, 2964 Peachtree Road NW
Atlanta, Georgia 30305

Office of the United States Trustee
75 Ted Turner Drive, SW
Suite 362
Atlanta, Georgia 30303

UNITED STATES BANKRUPTCY COURT
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CERTIFICATE OF SERVICE

This is to certify that service of the within and foregoing *Motion of Trustee for an Order Pursuant to Bankruptcy Rule 2004 Authorizing Examination of SouthState Bank, National Association (Inc.) fka Atlantic Capital Bank, N.A.* was served via the United States Bankruptcy Court for the Northern District of Georgia's Electronic Case Filing System to all parties who have filed appearances and requested notices and by United States Mail with adequate postage affixed thereon and addressed as follows:

SouthState Bank, National Association (Inc.)
c/o Corporation Service Company
2 SUN COURT, SUITE 400
PEACHTREE CORNERS, GA, 30092

SouthState Bank, National Association (Inc.)
c/o John Corbett, CEO
1101 First Street South
Winter Haven, FL, 33880

This 21st day of July, 2022.

LAW OFFICES OF HENRY F. SEWELL JR., LLC

/s/ Henry F. Sewell, Jr.

Henry F. Sewell, Jr.
Georgia Bar No. 636265
Buckhead Centre
2964 Peachtree Road NW, Suite 555
Atlanta, GA 30305
(404) 926-0053
hsewell@sewellfirm.com

Counsel for S. Gregory Hays, as Chapter 7 Trustee of Atlanta Light Bulbs, Inc.